

Scott M. Petersen, #7599
David N. Kelley, #9137
Madelyn L. Blanchard, #16403
FABIAN VANCOTT
215 South State Street, Ste. 1200
Salt Lake City, Utah 84111-2323
Telephone: (801) 531-8900
Facsimile: (801) 596-2814
spetersen@fabianvancott.com
dkelley@fabianvancott.com
mblanchard@fabianvancott.com
Attorneys for Defendants

Jeffrey T. Green (admitted pro hac vice)
Marisa S. West (admitted pro hac vice)
Joshua W. Moore (admitted pro hac vice)
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
Telephone: (202) 736-8000
Facsimile: (202) 736-8711
jgreen@sidley.com
mwest@sidley.com
joshua.moore@sidley.com

**IN THE UNITED STATES DISTRICT COURT
STATE OF UTAH, CENTRAL DIVISION**

<p>FRANCISCO S., and M.S.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>AETNA LIFE INSURANCE COMPANY, and WORLD BANK GROUP MEDICAL INSURANCE PLAN.</p> <p>Defendants.</p>	<p>STIPULATION AND JOINT MOTION TO VACATE AND WITHDRAW MEMORANDUM DECISION AND ORDER AND DISMISS CASE WITH PREJUDICE</p> <p>Case No. 2:18-CV-00010 DAO</p> <p>U.S. Magistrate Judge Daphne A. Oberg</p>
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Plaintiffs, Francisco S. and M.S., and Defendants, Aetna Life Insurance Company (“Aetna”) and the World Bank Group Medical Insurance Plan (the “World Bank”) (collectively, the “Parties”), through counsel, hereby represent to the Court that they have conditionally resolved this matter in its entirety by confidential agreement. As conditions precedent to resolution of this matter, the Parties stipulate as follows:

1. WHEREAS, the Parties agree that a contractual relationship does not exist between Plaintiff Francisco S. and Aetna, warranting the dismissal with prejudice of the Amended Complaint as to Aetna;

2. WHEREAS, the Parties agree that the World Bank Group Medical Insurance Plan is not a legal entity and is thus an improper party to this lawsuit. To the extent that the World Bank Group Medical Insurance Plan and the World Bank constitute the same legal entity, a fact that the Bank does not concede, the Parties agree that the World Bank contends it is immune from this action under both its Articles of Agreement (“Articles”) and the International Organizations Immunities Act, 22 U.S.C. § 288 *et seq.* and that the World Bank contends it has not explicitly or implicitly waived its immunity under its Articles and that the World Bank also contends Plaintiffs’ action does not fall within any of the Foreign Sovereign Immunities Act exceptions, including, but not limited to, the commercial activity exception, 28 U.S.C. § 1605(a)(2). The Parties further agree that the World Bank argues that Magistrate Judge Evelyn J. Furse’s April 6, 2020 decision erroneously construes the scope of the Supreme Court’s decision in *Jam v. Int’l Fin. Corp.*, 139 S. Ct. 759 (2019).

3. WHEREAS, in light of the pending Motion for Reconsideration and in order to resolve completely the dispute existing between them and to conserve resources that would otherwise be consumed in continued litigation between them, the Parties jointly move the Court to vacate and withdraw the April 6, 2020 Memorandum Decision and Order Granting in Part and Denying Defendants’ Motion to Dismiss and Denying Defendants’ Motion to Transfer Venue, ECF No. 48 (“Memorandum Decision”). *See e.g.* Stipulation & Order, *Nat’l Day Laborer Org. Network v. U.S. Immigration and Customer Enf’t Agency*, No. 10-cv-03488 (S.D.N.Y. June 17, 2011), ECF Nos. 97 & 98; Order, *Lalli v. Hartford Ins. Co.*, No. 10-cv-00152, 2012 WL 5328622 (D. Utah Oct. 29, 2012);

4. WHEREAS, the Parties jointly move the Court to order all Internet sites, including Westlaw and LexisNexis, that have made a copy of the Memorandum Decision available to the public to remove it from their respective legal research services/databases; and

5. WHEREAS, the Parties jointly move the Court to dismiss the Amended Complaint with prejudice, each Party to bear its own attorneys' fees and costs incurred herein.

A proposed order granting this stipulation and joint motion is being filed concurrently herewith.

DATED this 14th day of October, 2020.

/s/ Scott M. Petersen
Scott M. Petersen
David N. Kelley
Madelyn L. Blanchard
FABIAN VANCOTT

Attorneys for Defendants

Jeffrey T. Green
Marisa S. West
Joshua W. Moore
SIDLEY AUSTIN

Attorneys for the World Bank

/s/ Brian S. King (w/ permission)
Brian S. King
Nediha Hadzikadunic
BRIAN S. KING PC

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify on this 14th day of October, 2020, that I caused a true and correct copy of the foregoing document to be delivered via the Court's electronic filing system to:

Brian S. King
brian@briansking.com
Nediha Hadzikadunic
nediha@briansking.com
Attorneys for Plaintiffs

/s/ Scott M. Petersen